

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 10 of 17

REMARKS

Claims 1-29 are pending after this amendment.

Allowable subject matter

The Examiner has indicated that claims 11, 17 and 24 would be allowable if rewritten in independent form to include the features of their respective base claims and any intervening claims. The Applicant has done this by amending claims 11 and 24 to include the features of claim 1 and by amending claim 17 to include the features of claims 1 and 16. The Applicant submits that claims 11, 17 and 24 are now in condition for allowance.

Claims 1-10, 12-16, 18-23, 25-26

The Office Action cites the following references and combinations of references in relation to claim 1:

- United States Patent No. 6,431,933 (Saghri '933);
- United States Patent No. 6,089,935 (Flemming III);
- the combination of United States Patent No. 5,080,620 (Reden) and United States Patent No. 3,255,472 (Thorne);
- the combination of Saghri '933 and United States Patent No. 5,498,184 (Saghri '184); and
- the combination of Flemming III and United States Patent No. 6,533,625 (Taylor).

As understood by the Applicant:

- Saghri '933 describes a body board (10) having a bow (14), a stern (16) and a pair of conically-shaped extensions (18) located on opposite sides adjacent the stern of the board. The extensions extend upwardly from upper surface (13) of the board and outwardly from their respective sides of the board. Each extension defines a volume (22) for receiving water by which the body board may be propelled in a forward direction. The extensions are made from a flexible material that can be reinforced with suitably shaped inserts. Each extension may also have a forward opening (33) for drainage after use and to facilitate folding of the board for storage;

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 11 of 17

- Flemming III describes a water ski (10) having an upper side (12), an underside (11), a front end (13) and a rear end (14). An arched fin (18) is carried on the underside of the ski at the rear end thereof. The arched fin and ski form a continuous channel (22) for water flow along the bottom of the ski;
- Reden describes a water ski (1) having a pair of foot bindings (20) and a pair of rope clips (10, 14) located on the upper surface of the ski and having two short tails (4) which extend backward from the body (2) of the ski. Each tail has a tapered portion (23), which includes a plurality of tubes (28) having constant cross-section and an open-bottomed tunnel (26) that is narrowest at its forward end and wider at its rearward end;
- Thorne discloses a spray making attachment (18) for a water ski (10). The spray making attachment includes a mounting assembly (20) that is secured to the undersurface (44) of the ski and connected to a spray making conduit member (22). The spray making conduit member includes a rear portion (26) that extends rearwardly past the rear end edge (48) of the ski and upwardly past the upper surface (16) of the ski;
- Saghri '184 discloses a body board (30) having a bow (34), a stern (36) and a pair of extensions (44, 48) removably mounted to the board. The extensions are located on either side (46, 50) adjacent the stern of the board and each extension extends upwardly from an upper surface (33) of the board and outwardly from its respective side of the board. Each extension provides a rearward-facing surface (56), so that the force of fluid delivered against the rearward-facing surface propels the body board in a forward direction; and
- Taylor discloses a water ski (20) having a major groove (56) which extends longitudinally along its bottom surface (26). The bottom surface of the ski also has a plurality of longitudinally spaced apart grooves (60, 62) on the left and right sides of the major groove which extend from the major groove toward the side edges of the ski.

The Applicant respectfully submits that claim 1, as amended, patentably distinguishes the cited references.

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 12 of 17

The Applicant respectfully submits that claim 1 patentably distinguishes Saghri '933 and Saghri '933 in combination with Saghri '184. Claim 1 recites the combination of "a buoyant kickboard having a front end tapered in width" and "a funnel member ... defining, either itself or in combination with the undersurface of the kickboard, a channel having one or more front openings for allowing water into the channel and one or more rear openings for allowing water to escape from the channel, wherein the one or more front openings are located closer to the tapered front end than the one or more rear openings and wherein the one or more front openings have a total cross-sectional area that is greater than a total cross sectional area of the one or more rear openings."

Saghri '933 fails to disclose this combination of features recited in claim 1. This combination of features includes a kickboard having a front end tapered in width and a funnel member having front opening(s), located closer to the tapered front of the kickboard, with greater cross-sectional area than the corresponding rear opening(s). While the pair of extensions (18) disclosed by Saghri '933 may be interpreted to be "funnel members", and forward openings (33) of extensions (18) may be considered to be "front openings", the forward openings (33) disclosed by Saghri '933 do not have "a total cross-sectional area that is greater than a total cross sectional area of the one or more rear openings." In contrast, the rearward facing openings of the Saghri '933 extensions (18) are larger than their front openings (33). This aspect of Saghri '933 is clearly shown in by the combination of Figures 1 and 4 and explained the accompanying description at column 4, lines 45-48, which states "[i]t will be appreciated that the rearwardly facing surface defining the volumes 22 within the extensions extend [sic] to a maximum cross-sectional area adjacent the aft end of the extensions 18."

Based on this reasoning, the Applicant respectfully submits that claim 1 patentably distinguishes Saghri '933.

Saghri '184 fails to remedy the aforementioned deficiency with Saghri '933. Saghri '184 also fails to teach or suggest the combination of a kickboard having a front end tapered in width and a funnel member having front opening(s), located closer to the tapered front of the kickboard, with greater cross-sectional area than the corresponding rear opening(s). The extensions (44, 48) taught by Saghri '184 do not have the "one or more front openings" or "one or more rear openings" recited in claim 1. In contrast, the extensions (44, 48) taught

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 13 of 17

by Saghri '184 have rearward-facing surfaces (56) oriented so that the force of fluid delivered against the rearward-facing surfaces (56) propels the body board in a forward direction. Since Saghri '184 does not teach or suggest the "openings" recited in claim 1, it clearly does not teach or suggest the more specific features relating to the cross-sectional areas of such openings.

Based on the reasoning presented above, the Applicant respectfully submits that claim 1 patentably distinguishes the combination of Saghri '933 and Saghri '184.

The Applicant respectfully submits that claim 1 also patentably distinguishes Thorne, Reden, Flemming III and Taylor, both alone and in combination. Thorne, Reden, Flemming III and Taylor describe water skis. Water skis are not kickboards. Water skis have bindings, boots or other implements which project upwardly from their upper surfaces for connecting to a skier's feet, so that a skier is able to stand on the water ski. Water ski bindings located on the upper surface of the water skis are specifically disclosed by: Thorne (see reference numeral 14 of Figure 1 and the accompanying description at column 2, lines 4-5); Reden (see reference numeral 20 of Figures 1 and 2 and the accompanying description at column 3, lines 45-50); and Taylor (see reference numerals 46, 48, 50 and 52 and the accompanying description at column 2, lines 59-63). Furthermore, while water skis may be sufficiently buoyant to float, they will not generally support a person in the water unless the person is being towed by a relatively fast moving water ski boat. When a person moving at a slower speed puts their weight on a water ski, the water ski will sink.

In contrast to the water skis of Thorne, Reden, Flemming III and Taylor, claim 1 recites a buoyant kickboard having "a generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". Water skis (such as those disclosed by Thorne, Reden, Flemming III and Taylor) have bindings on their upper surfaces for receiving a person's feet. The bindings on the upper surfaces of water skis project upwardly. Accordingly, water skis incorporating such bindings do not have "a generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". In addition, water skis (such as those disclosed by Thorne, Reden, Flemming III

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 14 of 17

and Taylor) are not sufficiently buoyant to receive and support the arms or upper body of a swimmer in a prone position, because swimmers move much more slowly than water ski boats. At the relatively low velocities of a swimmer, water skis would sink under a swimmer's weight.

Based on this reasoning, the Applicant respectfully submits that claim 1 patentably distinguishes Thorne, Reden, Flemming III and Taylor, both alone and in combination.

Claims 2-10, 12-16, 18-23, 25 and 26 depend from claim 1 and are respectfully submitted to be allowable for at least this reason.

Claim 27

The Office Action cites Saghri '933 in relation to claim 27. The Applicant respectfully submits that claim 27 patentably distinguishes Saghri '933.

Claim 27 recites the combination of a funnel member that "is coupleable to a kickboard having a front end tapered in width" wherein the funnel member "defines, either itself or in combination with an undersurface of the kickboard, a channel ... having one or more front openings for allowing water into the channel and one or more rear openings for allowing water to escape from the channel, wherein the one or more front openings are located closer to the tapered front end than the one or more rear openings and wherein the one or more front openings have a total cross-sectional area that is greater than a total cross-sectional area of the one or more rear openings." As discussed above in relation to claim 1, Saghri '933 fails to teach or suggest a funnel member having front opening(s) with "a total cross-sectional area that is greater than a total cross-sectional area of the one or more rear openings," wherein the front opening(s) are "located closer to the tapered front end" of the kickboard than the rear opening(s).

For these reasons, claim 27 is submitted to be allowable over Saghri '933.

The Office Action also cites Flemming III in relation to claim 27. The Applicant respectfully submits that claim 27 also patentably distinguishes Flemming III. Flemming III describes a water ski. In contrast, claim 27 recites a funnel member that is "coupleable to a

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 15 of 17

kickboard having ... a generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". As discussed above, water skis have bindings which receive a person's feet and which project upwardly from their upper surfaces. Accordingly, water skis and do not have a "generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface." In addition, as discussed above, water skis are not sufficiently buoyant to receive and support the arms or upper body of a swimmer in a prone position, because swimmers move much more slowly than water ski boats. At the relatively low velocities of a swimmer, water skis would sink under the swimmer's weight.

For these reasons, claim 27 is submitted to be allowable over Flemming III.

Claim 28

The Office Action cites Flemming III in relation to claim 28. The Applicant submits that claim 28 patentably distinguishes Flemming III. Flemming III describes a water ski. In contrast, claim 28 recites "providing a kickboard having ... a generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". As discussed above, water skis have bindings which project upwardly from their upper surfaces and which receive a person's feet. Water skis do not have a "generally flattened upper surface for receiving and supporting the upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". In addition, as discussed above, water skis are not sufficiently buoyant to receive and support the upper body of a swimmer in a prone position, because swimmers move much more slowly than water ski boats. Accordingly, the Applicant respectfully submits that claim 28 is allowable over Flemming III.

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

Page 16 of 17

Claim 29

The Office Action cites Saghri '933 in relation to claim 29. The Applicant respectfully submits that claim 29 patentably distinguishes Saghri '933. Claim 29 recites the combination of a kickboard having "a front end tapered in width" and a means for increasing the drag on a kickboard by "providing at least one channel ... having an inlet facing the tapered front end and at least one outlet located rearward of the inlet, the inlet having a cross-sectional area greater than that of the outlet." As discussed above, Saghri '933 fails to teach or suggest a channel having an inlet that is closer to the tapered front end of a kickboard wherein the inlet has a cross-sectional area greater than that of a more rearwardly located outlet. Accordingly, claim 29 is submitted to be allowable over Saghri '933.

The Office Action also cites Flemming III and the combination of Reden and Thorne in relation to claim 29. The Applicant submits that claim 29 patentably distinguishes Flemming III, Reden and Thorne both alone and in combination. Flemming III, Reden and Thorne describe water skis. In contrast, claim 29 recites "a buoyant kickboard having a front end tapered in width and a generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". As discussed above, water skis have bindings which project from their upper surfaces for coupling to a person's feet. Water skis do not have a "a generally flattened upper surface for receiving and supporting the arms or upper body of a swimmer in a prone position, the upper surface free from upward projections that would interfere with a swimmer placing his or her upper body on the upper surface". In addition, as discussed above, water skis are not sufficiently buoyant to receive and support the arms or upper body of a swimmer in a prone position, because swimmers move much more slowly than water ski boats. Based on this reasoning, the Applicant submits that claim 29 patentably distinguishes Flemming III, Reden and Thorne both alone and in combination.

Application No. 10/807098
Amendment dated 20 January 2005
Reply to Office Action of 28 October 2004

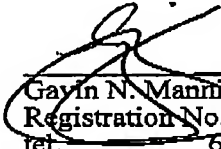
Page 17 of 17

Conclusions

In view of the amendments and arguments presented above, the Applicant submits that this application is now in condition for allowance and respectfully requests reconsideration and allowance of this application.

Respectfully submitted,
OYEN WIGGS GREEN & MUTALA

By:



Gaylin N. Manning
Registration No. 36,412
tel. 604.669.3432 ext. 9043
fax: 604.681.4081
e-mail: docket3@patentable.com